

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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**Case No. S-914-C**

**PETITION OF TOURNAMENT PLAYERS CLUB AT AVENEL, INC.**

OPINION OF THE BOARD

(Opinion Adopted January 17, 2007)

(Effective Date of Opinion: February 9, 2007)

Case No. S-914-C is an application to modify the existing special exception for a private golf club in order to renovate the golf course, including redesigning some holes, replacement of all turf, and stream restoration work to control flooding problems. The Hearing Examiner for Montgomery County held a hearing on the application on November 6, 2006 and November 8, 2006, closed the record in the case on January 4, 2007, and on January 5, 2007 issued a Report and Recommendation for approval of the modification.

The subject property is in Block J; Part of Parcel A, B, C, and portions of Parcel A in Block K, Avenel Subdivision, located at 10000 Oaklyn Drive, Potomac, Maryland, 20854, in the RE-2C Zone.

Decision of the Board:

Special Exception Modification **Granted**  
Subject to Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on January 17, 2007. The Board also had before it a letter from John W. Dix, dated January 11, 2007. After careful consideration and review of the record in the case, the Board voted to re-open the record to receive Mr. Dix's letter, to adopt the Hearing Examiner's Report and Recommendation, and to **grant** the special exception modification subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, including those required to be submitted by Condition 3 below, and by the representations of counsel identified in the

Hearing Examiner's Report and Recommendation and in the Opinion of the Board.

2. All terms and conditions of the approved special exception shall remain in full force and effect, except as specifically amended by this modification.
3. Within 15 days of the Board of Appeal's action on this application, the Petitioner shall submit to the Board the following exhibits, corrected to show an accurate boundary line in the area of the maintenance facility, with each exhibit marked "CORRECTED REPLACEMENT EXHIBIT," with its current exhibit number:
  - a. Ex. 65, Existing Golf Course Layout
  - b. Ex. 67, Proposed Layout
  - c. Ex. 83, Stream and Floodplain Restoration Plan
  - d. Ex. 68, Forest Conservation
  - e. Ex. 75, Temporary Construction Access and Staging Areas
4. The operation of the special exception shall be limited by the parameters set forth in the column entitled "Proposed" on the chart attached as Appendix A to this report, which is identified as Exhibit 23(d) and repeated on pages 11-14 of this report, except that where a condition imposed in these numbered paragraphs differs from the chart, the condition shall govern.
5. The special exception shall be limited to a total of 50 employees on site at one time, except during the last three weeks of the preparation period for the annual PGA TOUR Event, the first week of the clean-up period, and the PGA TOUR Event itself.
6. On-site activities related to preparation for the annual PGA TOUR Event may begin no sooner than six weeks before the event is to begin, and may take place only during the hours during which Montgomery County regulations permit construction activities to take place. During the first four weeks of the preparation period, preparation activities may take place only on weekdays. During the first three weeks of the preparation period, the number of workers on site at any one time in addition to the 50 full-time employees of the golf course shall be limited to 15, and the number of deliveries associated with the PGA TOUR Event shall be limited to no more than 20 per week.
7. In conjunction with its request for a site plan modification approval from the Montgomery County Planning Board, the

Petitioner shall request approval for a revised forest conservation plan, as shown on page 41 above and identified as Exhibit 68 (to be submitted in corrected form per Condition 3 above), which does not impinge on golf course views that are currently enjoyed by nearby residences.

8. The proposed golf course renovation may be carried out with either of the alternatives for hole 13 shown on page 23 of this report, as determined with input from Technical Staff during site plan review.
9. The Applicant shall submit a Final Forest Conservation Plan (FCP) prepared by a qualified professional to the Environmental Planning Staff of the M-NCPPC prior to site plan approval. This plan must demonstrate full compliance with the requirements of Forest Conservation Law, section 22-A-12.
  - a. Final forest conservation plan will include, but is not limited to, the following items:
    - i. Permanent markers (such as fences or signs) that clearly identify the boundaries of forest retention, forest planting, and environmental buffers, particularly in the vicinity of residences, and heavy-use areas.
    - ii. Plan to control invasive plants, deer and wildfowl predation, to minimize their adverse impacts on forest planting areas, stream buffers, and floodplain reconstruction/wetland creation areas.
    - iii. Tree protection plan for individual trees 24 inches and greater in diameter at breast height that are located outside a forest stand.
  - b. Record plat to reflect a Category I easement over all areas of forest retention, and forest planting. With respect to environmental buffers that are not included in active play areas, specific areas to be included in any easement area and specific easement category to be determined at time of site plan.
10. Approval of Board of Appeals Petition No. S-914-C, TPC at Avenel, with the following conditions:
  - a. Prior to sediment control plan approval, obtain a letter of intent to issue Nontidal Wetlands and Waterways Permit from the Maryland Department of Environment (MDE) for waterway construction and wetland disturbance.

- b. Final stream restoration, floodplain reconstruction and environmental remediation plan shall include, but is not limited to, the following elements:\
  - i. Provide existing and build-out stream discharges, and design discharge and shear stresses for stream improvements, particularly along the mainstem of Rock Run to ensure that stream restoration design is an improvement over current conditions.
  - ii. Longitudinal profile before and after construction, and affects of proposed work on overall floodplain elevation and channel slope.
  - iii. Provide existing and proposed sediment transport capacity and demonstrate improved downstream conditions.
  - iv. Construction sequence and construction management plan that includes presence of design professional during key construction stages, and completion and submission of as-built surveys to be done section by section.
  - v. Integrated pest management plan to promote water quality, water conservation, and chemical use reduction.
  - vi. Maximization of the use of sod to quickly re-establish stable ground cover adjacent to stream restoration and renovation work, per June 16th PGA Tour correspondence.
- c. Prior to site plan approval, develop and obtain M-NCPPC, DEP and DPS staff approval of an inspection and maintenance plan for stream channel restoration practices and floodplain reconstruction areas, including regular field inspection schedule as well as inspections following significant storm events. Inspection and maintenance plan will cover minimum of three years post-construction, and will be extended to cover the first two-year storm, ten-year storm, fifty-year storm and 100-year storm to occur post-construction period. Plan shall include measures to implement basic repairs, and to remediate damage to parkland during construction and three-years post construction, such as from a demonstrable on-site sediment control or stream channel failure within the three-year post-construction period, applicant or their assigns shall re-design and reconstruct the project.

- d. Prior to site plan approval, develop and obtain M-NCPPC, DEP and DPS staff approval of a pre-and post-construction stream monitoring plan that is consistent with monitoring protocols for watershed restoration projects established by Montgomery County Department of Environmental Protection. The monitoring plan will establish a monitoring schedule appropriate to the type of monitoring to be conducted, and include a quality assurance/quality control plan. Monitoring will be conducted prior to commencement of construction, and at one-year, three-years and five-years post-construction. Types of monitoring to be conducted may include: permanent benchmark monitoring of stream channel cross-sections; quantitative and/or qualitative habitat monitoring; BEHI; benthic macroinvertebrate community samples; herpetofauna community at wetland creation or enhancement site; fish community samples; wetland vegetation monitoring; streambank vegetation monitoring; water quality parameters.
  - e. Site plan and final grading plan to delineate environmental buffer areas including establishment of a variable width stream buffer area throughout the course that incorporates forested buffers in areas that do not interfere with play, and minimally managed low-growing shrubs, native grasses, and taller turf grasses where trees would interfere with play.
  - f. Compliance with the conditions of approval of the MCDPS stormwater management concept approval letter dated July 3, 2006, prior to site plan approval.
  - g. Obtain DPS 100-YR Floodplain Study approval prior to site plan approval.
11. Petitioner shall establish a Community Liaison Council, whose members shall consist of no more than four representatives of the golf course, including those persons most familiar with the stream restoration work; the People's Counsel as *ex officio* member; and one or two representative of each of the homeowner's associations that have been involved in this case: Avenel Community Association, Inc.; Brickyard Road Citizen's Association and Mazza Woods Citizen's Association. The Community Liaison Council shall meet at least once before the

site plan modification is presented to the Planning Board, at least once before each of the monitoring events listed in Condition 9 above (i.e., prior to commencement of construction and at one-year, three-year and five-years post-construction) takes place, to give the community representatives an opportunity for input into how the monitoring is conducted, and at least once immediately following compilation of the results of monitoring, to give the community representatives an opportunity to ask questions of the golf course's experts concerning the monitoring results and to have further input in the process. The independent monitor hired by the golf course pursuant to Condition 9 above shall be asked to attend each of the Community Liaison Council meetings except the first, when monitoring will not yet be imminent. If any community representative on the Community Liaison Council wishes to obtain the services of an expert in stream restoration or a related field, such expert shall be given the opportunity to review relevant documentation and participate in the Community Liaison Council meetings.

12. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits or use-and-occupancy permit, necessary to implement the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and facility comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

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Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 9<sup>th</sup> day of February, 2007.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.